

February 11, 1975

A bill relating to contracts, to provide that certain covenants not to compete shall be void.

SPEAKER: Senator Maresh.

SENATOR MARESH: Mr. Speaker, members of the Legislature, this bill was called to the attention of the Labor Committee. The bill would provide contracts in which an employee promises his employer that on the completion of employment he will not compete with his employer, either in his own business or by working for another in the same trade or business. We should not prevent an employee from earning his living in his customary trade or employment nor should the employee be deprived of the opportunity to support himself and his family in reasonable comfort because there is likely to be greater, greater hardship on an employee than on the employer. Courts have stated on a number of occasions that they are more reluctant to uphold and to enforce the covenants not to compete entered by employees and those agreed by sellers of businesses. Many states, and most recently in California, have abolished this form of contract. This bill was called to our attention by Senator Mahoney. There is someone in his district that had this problem and the Court ruled in his benefit and I would like to call on Senator Mahoney to explain the problem.

SPEAKER: Senator Mahoney.

SENATOR MAHONEY: Mr. President, a Legal Aid Society attorney, Mr. Vard Johnson, came to myself and asked that the Labor Committee accept this bill because of a problem that a particular citizen had concerning contractual agreement that he had and the covenant he had had with a occupation and without getting into and discussing the bill, it was felt by the Legal Aid Society attorney that in order to help people in the future that this bill should be discussed in the Labor Committee and should have an opportunity to be heard as a bill because of a very real problem that was constituted in this citizen's area and I ask, at this time, that with the Chairman of Labor Committee that the Labor Committee be allowed to introduce the bill and have a hearing sometime in the near future.

SPEAKER: Further discussion. Senator Duis.

SENATOR DUIS: Mr. President, Senator Maresh and Senator Mahoney, I believe if I understood correctly I think Senator Mahoney said an individual, one person. Is this correct, Senator Mahoney?

SENATOR MAHONEY: Yes, I will be glad to answer that question, Senator Duis. There was, in this particular case, one individual who felt that he had been hurt in the very fact that he was not able to gain gainful employment because of this covenant.

SENATOR DUIS: Thank you very much. Now as I understand, you are going to have a bill introduced in the Legislature for one individual who has a desire to accomplish something that probably the courts couldn't take care of. Fine, you go ahead and introduce this but I guarantee you are going to open a bag of worms that you wouldn't believe because you are going to be involved in all types of contractual work, salesmen who are operating as independent contractors, salesmen that are working for people who have confidential files and all of this sort of thing for the fact that one individual has been denied something and has gone to court and, apparently, the court has upheld or maybe he hasn't even gone to court. I don't know, but they are trying to establish for the entire state of Nebraska a practice that I think you are going to find has a real problem